Cybersecurity

In today's interconnected world, virtually all companies, their suppliers and their customers are potential targets for cyber attacks. The risks associated with such incidents require a robust cybersecurity program in order to manage this fast-changing risk and remain in compliance.

Our global multidisciplinary team of lawyers and operational consultants advise on all issues surrounding cyber security, from building cyber resilience, through to incident response, and post-incident remediation, providing a holistic and tailored client service.

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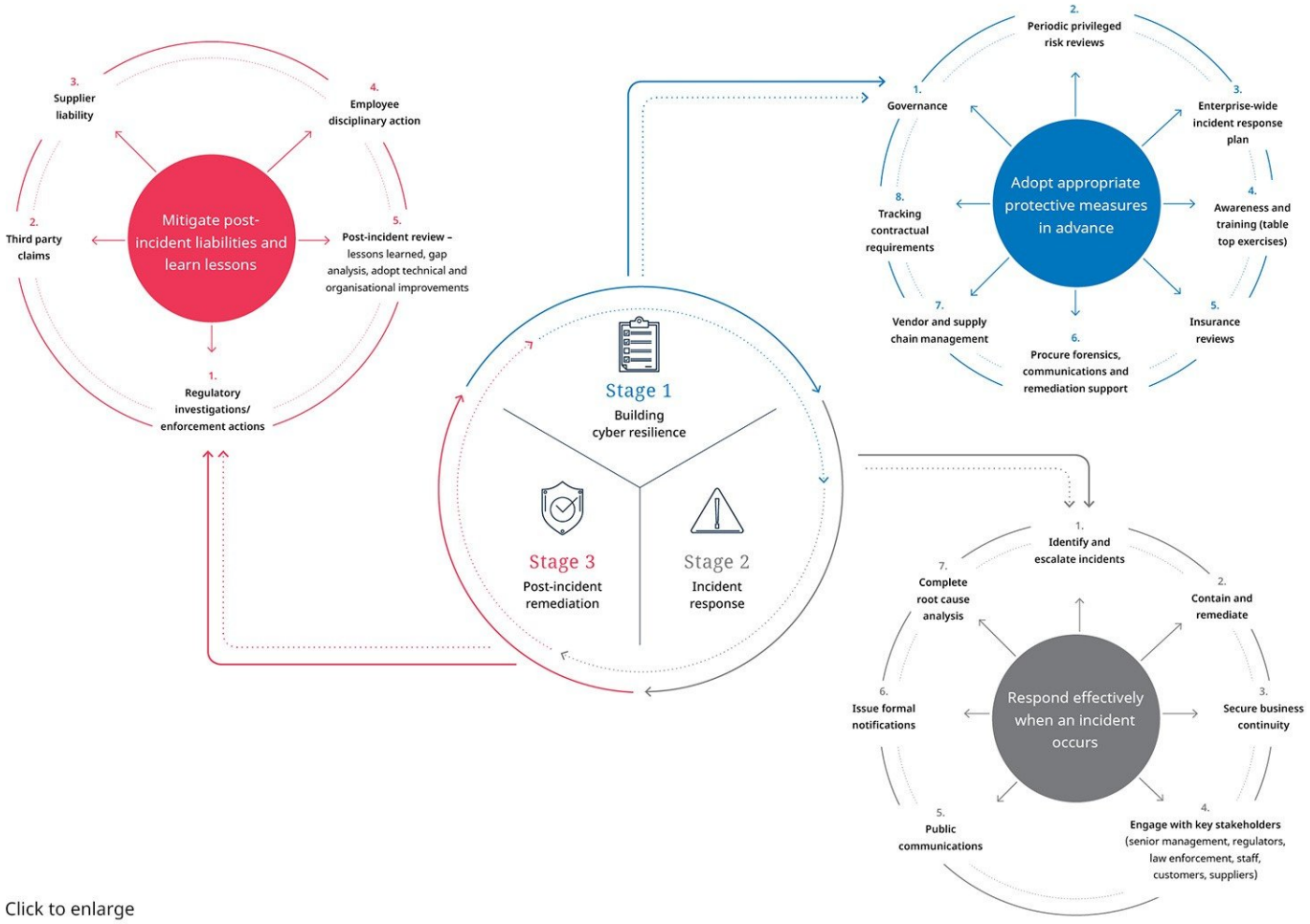

Click to enlarge

Risk mitigation - In order to ensure organizations are best placed to respond to an incident we help design and implement corporate governance structures to protect companies and their directors; offer privileged tools to assess risk and comply with evolving regulatory requirements; advise on developing and refining sound corporate policies and strategies to create and maintain a culture of security; and responsible supply-chain and vendor risk management techniques and contract support.

Incident response - We have helped clients through more than 800 security incidents globally. Our team can provide the experienced support you need 24x7 with confidence. We understand the legal and regulatory landscape in depth, having helped to draft almost all of the US data security and state breach notice laws and develop important best practices. We work as a cohesive team bringing a coordinated response to investigations and incidents on a worldwide basis.

Holistic approach - We combine technology, incident response, litigation, insurance and employment, and sector-adapted experience to give in depth support. We use round-the-clock communication protocols and a common methodology for immediate coordination and response. Wherever you may be, we can assemble an integrated team of the world's top cybersecurity technicians and lawyers, helping address your security problem, while cloaking those efforts in privilege (to the extent possible), anywhere in the world, within 24 hours of our first notification.

Global capabilities - Our team works together on a weekly basis and shares the same values and vision of client service. We provide a quick and consistent response to the cyber security needs of any organization. We match geographic and substantive breadth with depth, combining our technical knowledge of data protection, data risk and cyber security, cyber risk insurance policies, data transfer, records management, confidentiality, use of social media for business with practical experience and understanding of business imperatives.

Highly regarded - Our Cyber Security team was recently ranked by BTI Consulting Group among the Top 7 cyber security law firm practices. Many of our lawyers are recognized as leading individuals in their jurisdiction, and our global Data Protection, Privacy and Security practice is consistently recognized and top-ranked among our peers in the US, EU and globally by The Legal 500, Chambers & Partners, and other respected industry directories.

What we offer

We offer clients practical guidance through the cyber lifecycle, including:

Planning, design and preparation - building cyber resilience: our assistance includes ensuring clients have appropriate measures in place to manage cyber risk and respond effectively to a cyber-incident, preserving legal privilege and mitigating potential litigation and reputational risks. This includes bespoke training to relevant tiers of stakeholders, supporting the design of incident response plans and helping to lead "tabletop exercises" so that organizations refine and practice their plan to be able to respond swiftly and efficiently.

Incident response and investigations, including immediate access to forensic experts: our advice includes reporting obligations to the relevant supervisory data authorities and other relevant regulators, both civil and criminal. We regularly assist with strategic advice to contain and remediate adverse impacts on businesses, and protecting impact on a brand. We have pre-existing and trusted global relationships with forensic experts to assist with the response to any incident, ensuring swift and seamless instruction on a legally privileged basis, allowing immediate focus on mitigating the root causes of the incident. With over 180 privacy lawyers operating globally we regularly assist large organizations on multi-national compliance and regulatory obligations, ensuring continuity in response.

Post-incident remediation: we help clients to mitigate the impact of any claims or other liabilities resulting from the incident and to learn from the incident through post incident reviews and gap analyses. Our team includes employment, investigation and seasoned litigation lawyers that advise on a wide spectrum of issues relevant to data incidents, including third party claims and potential class actions; direct and officer liability; product / supplier liability; and, where relevant, employee disciplinary action.

Our insights

Rapid Response - From the moment a company learns about a potential breach of cyber security they should be armed with tools to respond quickly and effectively, while ensuring any action that is taken remains protected by legal privilege. Our 'Rapid Response' global crisis management hotline service provides 24-hour, 365-day access to regulatory legal advice and crisis assistance.

"In a Flash!" - A Lesson in Cyber Security - A dramatic film produced by DLA Piper, depicting a fictional corporation dealing with a number of real-world legal and regulatory issues, among them: cyber governance; cyber-risk management; security protocols; incident response plans; the corresponding legal and regulatory environment faced by board members, general counsel and senior business executives; and the delicate balance of managing internal investigations, reporting requirements and stakeholder interests.

Data Privacy Scorebox - Our online "scorebox" is designed to assist with assessing and benchmarking the data privacy maturity level of an organization. The complimentary tool takes the form of a survey which poses a series of questions relating to 12 areas of data privacy, such as storage of data, use of data, and customer rights. It takes no longer than half an hour to complete, with a range of multiple choice answers to select from. Once completed, a report is emailed which includes a visual summary of how the organization scored in relation to key global data protection principles, a practical action point check list, as well as peer benchmarking data.

CAPABILITES

Capabilities

Our cybersecurity team offers:

- **Truly global crisis management coverage.** Our team has handled many of the cyber incidents you have read about, and we bring that experience to bear when we handle a cyber incident. Whether an incident involves one or multiple countries, our team members use a common incident response protocol that is adapted to the regulatory and privilege requirements and culture of their countries without creating risk in other parts of the world. We work as a cohesive team bringing a coordinated response to investigations and incidents, regularly working together on a worldwide basis.
- **Proactive risk management.** We draw on deep operational and legal experience to routinely help clients develop, implement and refine proactive strategies for preventing and responding to cyber incidents, while mitigating related enforcement and reputational risks. This includes conducting tabletop exercises as well as creating policies and procedures for companies in all industries. We also utilize common security assessment methodologies that help benchmark security practices.
- **Enforcement and Litigation.** Our team has deep experience in representing clients before government regulators and Data Protection Authorities globally. Our cyber litigators represent clients in the full range of civil disputes – including data breach class action, intellectual property theft, financial fraud, commercial and employment disputes, D&O and securities actions, product liability, and personal injury resulting from cyberattacks.We also represent clients in their role as cybercrime victim in criminal investigations and prosecutions.
- **Thought Leadership.** Members of our team have written many of the definitive privacy and security books, including, *Information Security and Privacy: A Guide to Federal and State Law* and *Compliance and Information Security and Privacy: A Guide to International Law and Compliance* (West 2006-2020), collectively a 6,000-page, three-volume treatise that examines all aspects of privacy and security laws, published by Thomson-West. Our lawyers were instrumental in drafting the widely acclaimed *National Association of Corporate Directors (NACD) Cyber Risk Handbook*, a highly influential roadmap for cybersecurity governance, which has been widely praised by corporate governance experts and the Department of Homeland Security. Our lawyers are currently working on the 3rd edition of the US handbook, helped to draft the UK and German versions of the Handbook, and is currently working on an EU-wide version. We draw on this experience in advising clients on structuring cyber-risk governance and incident response to develop a strong enterprise-wide response.
- **Sector-specific focus.** We believe that our legal advice should be as pragmatic and practical as it is technically excellent. We are attuned to the unique requirements of different sectors and build customized teams that understand a client's business, as well as its cybersecurity needs.
- **Consulting Services.** Our Cybersecurity practice enhances its legal skills with the addition of highly experienced risk and technology consultants in order to support clients as a single Data Protection, Privacy and Security team. This joint legal and consulting approach to data risk, privacy, cyber and security projects is a significant point of differentiation from other large firms that has been recognized by notable rankings entities, including BTI Consulting Group, which recently placed the DLA Piper Cybersecurity practice among the BTI CyberSavvy 16 Law Firms in recognition of standing above all others for cybersecurity prowess. Our team of experienced Consultants are on the front lines of assessing, developing and implementing innovative data risk, privacy and security solutions for some of the world's largest and most geographically diverse companies.
- **Supply Chain Risk Management.** We are well versed in advising companies on how to assess, address, and bolster the cybersecurity practices and posture of its supply chain. Our proactive risk mitigation service involves providing practical, targeted and enforceable strategies throughout a company's supply chain, including: assessments of the risk exposure of cyber incidents in the supply chain; implementing supplier due diligence; and contracting and vendor management strategies to mitigate cybersecurity risks and manage liability, while maintaining compliance with applicable laws and obligations. The DLA Piper team includes former general counsels and chief compliance officers, insurance regulators, and commercial and government contracts attorneys who understand both the regulatory and business requirements of supply chain cybersecurity management.

EXPERIENCE

Experience

- Advising a listed software development company at the outset of a cyberattack and data breach which were reported to be among the worst cyber-espionage incidents ever suffered in the US. We were primarily responsible for responding to the cyberattack, to oversee the forensic investigation, and to respond to resulting litigation.
- Advising a leading retailer as standing counsel for breach response which involved working with several internal investigations into different incidents each involving PCI auditors. As is often the case, we took a coordination role advising on confidentiality rings and privilege in addition to providing advice on notification requirements, the forensic investigation and claims against the supply chain. We also worked closely with the communications team to draft re-active communications and Q&A for contact centers. Insurers were notified.
- Advising the largest financial institution in the US on its cybersecurity program including a risk governance presentation to Board of Directors; participating in a table top exercise with company legal, IT and communications departments; ongoing advice on cybersecurity risk management with regard to security standards, supply chain risk management, incident response program, and governance structures.
- Advising a leading sports car manufacturer on the implementation of its connected car service in multiple APAC jurisdictions and creating and implementing a bespoke data protection and cybersecurity compliance program throughout Greater China.
- Advising as standing counsel for a tier one global bank for cyber security and incident response. As part of this mandate we have advised on specific considerations for ransomware attacks with a particular emphasis on Europe and the US.
- Designing and overseeing a simulated breach response exercise focused on vendor management relationships for a global insurance provider in the commercial space. We worked closely with a small group of company personnel to design an exercise to test the effectiveness of the company's incident response plan and guided them through the program, identifying potential gaps in the program, and, after the program, recommended modifications to the incident response plan.
- Advising Barings on a range of data privacy compliance matters covering their global business, including the implementation of their data privacy framework across APAC and security issues associated with operations in mainland China.
- Advising a global financial services organization on cyber security and incident response, including the deployment of the DLA Piper "Notify" tool and support with incident triage and classification.
- Advising a European life sciences company with a presence in over 40 countries globally in response to a cyberattack deemed a matter of national security by the National Crime Agency (NCA) and the National Cyber Security Centre (NCSC). We advised the client and their cyber insurers on GDPR notifications; US data protection notifications (including notifications pursuant to HIPAA); non-EU/non-US data protection notifications; liaison with international criminal authorities in the US, UK, Germany and Belgium; OFAC regulations in the US and TracFin regulations in France; contractual obligations with customers; engagement of external IT service providers; press releases and engagement with key customers; and insurance.
- Advising a major cyber insurer in responding to a series of ransomware and data ransom attacks over three months across Asia and Latin America by the sophisticated Maze cyber extortionist group. We served as client GC and global cybersecurity lead counsel's right hand to devise and execute on a legally privileged response that included forensic investigation and IT remediation; attacker negotiations; international law enforcement interactions; internal and external global media communications; and business partner, data subject, and regulator notification strategy across the affected regions.
- Advising a global, publicly-traded company in a multi-pronged cyberattack that compromised more than 300 Office 365 accounts in 10 different countries, leading to various phishing campaigns, business email compromises, and payment re-direction schemes around the globe. We led the crisis management and incident response teams, which included management of a legally privileged forensic investigation and IT remediation; internal and external global media communications; and business partner, data subject, and regulator notification strategy across the European Union and Americas.
- Advising a UK based company in the immediate aftermath of a cyber attack which potentially compromised thousands of customers' personal data. We advised the client on the steps to take in order to identify the breach; we advised on the content of the requisite regulatory notifications to be made; we drafted customer communications including the initial notifications as well as Questions & Answers and update communications. In addition we held daily calls with the client for the first three weeks in order to ensure that the breach was dealt with efficiently and effectively.
- Advising a long-standing client in relation to a cyber-incident which may have resulted in loss of sensitive customer data. When the Financial Conduct Authority (FCA) raised queries in relation to the cyber-incident, the client brought in our team to handle the FCA investigation. We assisted the client with responding to multiple FCA information requests and advised on its obligations to notify the FCA (and the extent to which those obligations differed to those under the GDPR) and the FCAs expectations in terms of IT security and cyber-risk mitigation and preparing briefing notes to the Board.
- Engaged to review a financial services company's 2017 data breach and to advise the client on its participation in very high-profile Congressional hearings regarding the breach, including preparing both the former CEO and interim CEO for five separate appearances testifying at congressional hearings and on responses to committees' requests for information.
- Representing a London property insurance market in respect of prospective claims and their liability in connection with a fraudulent cyber phishing hack which resulted in the loss in transit of an electronic claim payment and the need for the insurers to make a replacement payment to their insured client. We provided multi-jurisdictional cross-border advice on merits, strategy and have represented the insurers in mediation and negotiations. There is prospective commercial court litigation in London as well as formal proceedings in the United States.
- Representing various Sony entities in multidistrict litigation arising from one of the world's largest recorded data security breaches. The breach affected more than 77 million users, after which more than 65 class action lawsuits were filed nationwide. Plaintiffs' claims range from violations of consumer protection and data breach notification statutes to common law claims, such as negligence, misrepresentation, breach of contract, breach of warranty, and unjust enrichment.

INSIGHTS

Publications

Lloyd v Google – Supreme Court Judgment – report and impacts on data protection and mass claims in the UK

10 November 2021
UK Supreme Court allowed Google's appeal against the Court of Appeal decision which had previously granted Mr Lloyd permission to serve his representative claim on Google in the United States. The judgment brings to an end to one of the most significant issues to come before the UK Courts concerning class actions and data protection regimes.

Protecting your company from supply chain cyber attacks

September 2021
Today, virtually all companies rely on third-party technical solutions to manage their business. The downside is that incorporating new third-party technology into business operations creates new vectors for cyberattacks.

Fending off phishing attacks: Some simple steps using trademark law

June 2021
We often think about how to respond once a breach has occurred, but rarely do we consider how to prevent a breach or scam entirely.

What the Biden Cybersecurity Executive Order means for technology vendors and service providers in the federal ecosystem

June 2021
Steps technology vendors should consider as they prepare.

European Commission's standard contractual clauses: extensive new requirements coming for US businesses receiving EU personal data subject to GDPR

8 June 2021
Adopting and complying with the New SCCs may require considerable effort for importers, particularly those that are not otherwise directly subject to GDPR.

Episode 15: Comprehensive New E-Commerce Rules Introduced

23 March 2021
NAVIGATING CHINA: THE DIGITAL JOURNEY

Operators of e-commerce platforms, websites and apps in China, and those using third party e-commerce, social media or livestreaming platforms to sell their products and services in China, must update their operations, services and systems in advance of wide-ranging new rules.

Supreme Court dives into circuit split over the Computer Fraud and Abuse Act

28 January 2021
What does it mean to "exceed authorized access" to an Internet-connected device?

Unauthorized financial transaction fraud: Mitigating liability risks

28 January 2021
Prudent financial institutions are seeking to protect themselves against liability for third-party fraud and accountholder carelessness.

When a threat actor strikes: Legal considerations and challenges in a ransomware attack

21 December 2020
Evidence suggests that having employees working remotely significantly increases the risk of a successful ransomware attack.

Cyberfrauds and Cyberattacks: Remote Working Posing Increased Risks and How to Stay Protected

14 December 2020
Cybercriminals are becoming more sophisticated in the ways they facilitate cyberfrauds, with the increasing use of personalised messages on instant messaging platforms such as WeChat or WhatsApp and socially engineered phishing emails to deceive recipients to transfer funds, disclose sensitive information or click on malicious links.

Navigating China Episode 14: New draft national, harmonised data protection law for Mainland China

23 October 2020
NAVIGATING CHINA: THE DIGITAL JOURNEY

A first national level personal information protection law for Mainland China has been published, reinforcing and heightening existing data protection compliance obligations for organisations doing business in China.

China signs off on PRC Biosecurity Law: What this means for industry players in China

21 October 2020
The Biosecurity Law establishes a comprehensive framework replacing the current somewhat piecemeal legislation.

Singapore: Imminent Changes to the Personal Data Protection Act 2012 (PDPA)

16 October 2020
On 5 October 2020, the Singapore Personal Data Protection (Amendment) Bill (Bill) was tabled in Parliament for the first reading. It is expected that the Bill will be passed before the end of the year if not sooner.

Philadelphia grows privacy capabilities with a new arrival

30 September 2020
Ronald Plesco, an internationally known information security and privacy lawyer, has joined our Philadelphia office.

***Schrems II:* Now what? New FAQs from EU data protection supervisors provide guidance on data transfers**

28 July 2020

Organizations relying on Privacy Shield for transfers to the US of personal data subject to GDPR must immediately implement an alternative mechanism or cease transfers.

Business protection: An Interactive guide

18 June 2020
Global companies are at risk of their data and confidential information being leaked to competitors, especially when key employees leave. Protecting the integrity of new formulations and trade secrets is crucial, particularly for life sciences companies, to holding a competitive advantage and building success.

Navigating China Episode 13: (More) Important Developments in China's Privacy and Cyber Laws

10 June 2020
NAVIGATING CHINA: THE DIGITAL JOURNEY

China's privacy and cyber authorities have been busy in the last month enacting substantial enhancements and clarifications to data protection compliance obligations; and even more changes are expected before the end of 2020.

New Chinese Civil Code Introduces Greater Protection of Privacy Rights and Personal Information

9 June 2020
China's top legislature, the National People's Congress, recently enacted the PRC Civil Code (the Civil Code), which will come into force on 1 January 2021. This first ever "codified" legislation covers a wide spectrum of rights and issues such as property rights, contracts, matrimonial and family law and tort liability.

Important changes proposed to Singapore's Personal Data Protection Act

19 May 2020
Organisations should plan ahead for significant changes to Singapore's Personal Data Protection Act, which were proposed in a consultation paper published on 14 May 2020.

Facial recognition technology: Supporting a sustainable lockdown exit strategy?

8 May 2020
Technology has played a dominant role during the lockdown and will be a key aspect of ensuring the transition back to normality is successful. This article discusses recent trends, particularly in Ireland, Denmark and China, regarding the adoption of facial recognition technology (FRT) as a result of the COVID-19 pandemic.

Top of Mind: COVID-19 technology sector insights

28 April 2020
In this time of growing uncertainty, we recognize that many tech businesses are facing significant disruptions and unprecedented challenges arising from the coronavirus disease 2019 (COVID-19) pandemic.

FINRA publishes COVID-19 information notice providing suggested measures to strengthen cybersecurity controls

10 April 2020

FINRA provides numerous suggested measures for strengthening cybersecurity controls regarding increased risks associated with employees working remotely.

Episode 12: More obligations on Chinese mobile app operators to comply with

9 April 2020
NAVIGATING CHINA: THE DIGITAL JOURNEY

Following the crackdown by Chinese authorities against non-compliant mobile apps in late 2019 (please see Episode 8 in this series), the authorities have issued a series of app compliance guidelines (including the Guide to Self-Assess Illegal Collection and Use of Personal Information by Apps, Methods for Identifying Unlawful Acts of Apps to Collect and Use Personal Information, and Draft Specification for Collecting Personal Information in Mobile Applications). These guidelines imposed detailed obligations and practical actions to urge mobile app operators to conduct self-assessments and to rectify any non-compliant data processing practices. Organisations may have noted that some of these guidelines contain conflicting requirements.

Important updates for British Columbia Public Bodies amidst COVID-19 (Canada)

1 APR 2020
In light of the current and developing COVID-19 circumstances, the following alerts have been released for British Columbia Public Bodies, subject to the Freedom of Information Legislation. One order permits public bodies to use and disclose personal information using tools and cloud services outside of Canada in certain circumstances. Another extends the time for freedom of information responses. Last, organizations are asked to remain vigilant for cyber crime.

Coronavirus: Cybersecurity considerations for your newly remote workforce (United States)

31 March 2020

Cyber risk management involves balancing the productivity of a workforce with ensuring confidentiality, integrity and availability of the company's own systems and data, as well as that of their supply chain.

Episode 11: Important clarifications and changes to China's data privacy standards

27 March 2020
NAVIGATING CHINA: THE DIGITAL JOURNEY

Important updates to China's de facto data privacy regulations will come into force on 1 October 2020. The amendments to the Personal Information Security Specification (PIS Specification) comprise important clarifications rather than substantial changes to the existing regulations.

Blockchain and Digital Assets News and Trends

25 March 2020
BLOCKCHAIN AND DIGITAL ASSETS NEWS AND TRENDS

The age of viral outbreaks – key contract considerations in a post-COVID-19 world, plus latest legal, regulatory and case law developments around blockchain and digital transformation.

Coronavirus: Cyber hygiene practices

25 March 2020
While the world is responding to the coronavirus disease 2019 (COVID-19), and individuals are increasingly focused on personal hygiene and social distancing, augmenting cyber hygiene efforts at home and at work are increasing in importance too.

Episode 10: Stricter data localisation and security rules for financial and insurance data in China

06 Mar 2020
NAVIGATING CHINA: THE DIGITAL JOURNEY

The People's Bank of China has released new guidelines on the collection and processing of personal financial information (PFI Guidelines), which provide much-needed clarity on how personal financial information in China should be processed, secured, and transferred. While the PFI Guidelines do not impose an outright ban on personal financial information leaving China, mandatory compliance steps (including consent and impact assessments) must be taken.

Opportunities arising from Asia's data protection frameworks (AsiaPac)

14 February 2020
The media controversy surrounding China's coronavirus COVID-19 detection app, the "close contact detector," has highlighted a common misapprehension about how data protection law is universally applied around the world.

EU MDCG issues new guidance on Cybersecurity for medical devices

27 January 2020
On 7 January 2020, the EU Medical Device Coordination Group published new guidance to help manufacturers fulfil all relevant cybersecurity requirements in Annex I to the new Medical Device Regulations (Regulations 2017/745 on medical devices and 2017/746 on in vitro diagnostic medical devices).

DLA Piper GDPR Data Breach Survey 2020

20 January 2020

According to DLA Piper's latest GDPR Data Breach Survey, data protection regulators have imposed EUR114 million (approximately USD126 million / GBP97 million) in fines under the GDPR regime for a wide range of GDPR infringements, not just for data breaches.

France, Germany and Austria top the rankings for the total value of GDPR fines imposed with just over EUR51 million, EUR24.5 million and EUR18 million respectively. The Netherlands, Germany and the UK topped the table for the number of data breaches notified to regulators with 40,647, 37,636 and 22,181 notifications each.

Episode 9: 2020 - Privacy, Security and Content Regulation to Increase in China

10 January 2020
NAVIGATING CHINA: THE DIGITAL JOURNEY

China's authorities have published a much-anticipated brand new directive on internet content regulation and governance, which will come into force on 1 March 2020. This law will require organizations which host websites in China to make fundamental changes to their website governance frameworks.

Congressional hearing to focus on facial recognition and national security

12 December 2019
AI OUTLOOK

Technologies controlled by foreign governments and their implications for privacy and national security are expected to be a major topic.

EU: new obligations for digital services providers and operators of essential services

28 JUN 2016
In line with the EU's broader Cyber Security Strategy, the NIS Directive is a significant step towards a more secure cross-border cyberspace with a high shared level of network and information system security.

The blockchain revolution, smart contracts and financial transactions

26 APR 2016
Blockchain-based smart contracts have enormous potential to streamline financial transactions and reduce counterparty risks.

Plan now to use off-band communications during an incident response: key points

27 OCT 2015
A robust IR plan should include communications techniques that operate outside regular company communication methods.

***The Cybersecurity Framework:* Administration, Congress move to incentivize private-sector cooperation, strengthen federal acquisition process**

12 SEP 2013

Cybersecurity and US federal public procurements: what contractors need to know

11 MAR 2013
Practical considerations for US federal contractors

EU releases cybersecurity strategy

15 FEB 2013

Events

Previous

A practical guide to privilege in cyber investigations

15 October 2020
Webinar

Cybersecurity for a 2020 workforce

28 May 2020 | 1:30 - 2:30 ET
Webinar

COVID-19: Important Issues for Israeli Companies to Consider

6 April 2020
Webinar